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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of:

Policies and Rules
concerning Toll Fraud

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CC Docket No. 93-292

COMMENTS OF THE STATE OF
SOUTH CAROLINA
OFFICE OF INFORMATION RESOURCES

The Office of Information Resources of the South Carolina Budget and Control Board Division of Operations ("SCOIR")^{1/}, by its attorneys and pursuant to the Commission's December 2, 1993 Notice of Proposed Rulemaking, hereby submits its Comments in the above-captioned proceeding.

I. INTRODUCTION

The SCOIR is an office of the Division of Operations of the South Carolina Budget and Control Board and is charged with procuring and overseeing the operation of telecommunications facilities and services for all state agencies and institutions, including state-owned colleges and universities. In this capacity, SCOIR is responsible for ensuring a secure telephone

^{1/} SCOIR was formerly known as the South Carolina Division of Information Resource Management ("SCDIRM") and earlier filed comments regarding the Florida Public Service Commission's Request to Review Interstate and International Tariff Provisions Relating to Liability for Toll Fraud Charges, File No. 93-Toll Fraud-02.

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network for state government, a task which has proven to be increasingly difficult in the face of widespread fraudulent calling practices. In the past, SCOIR has incurred significant charges for fraudulent calls completed through the state telephone network. Increasingly, the state is devoting more time and effort to monitoring and tracking potential and real toll fraud abuses. Accordingly, SCOIR is pleased that the Commission is taking the steps evident by this proceeding to address toll fraud issues on a coordinated nationwide basis. In particular, as discussed below, SCOIR believes that the Commission's proposal to establish a new Federal Advisory Committee to deal with the problems of toll fraud, and to adopt the Florida approach to apportionment of liability for toll fraud losses, will be significant steps toward minimizing toll fraud in the future.

II. THE COMMISSION SHOULD ESTABLISH A NEW FEDERAL ADVISORY COMMITTEE TO RECOMMEND SPECIFIC SOLUTIONS

In Paragraph 13 of this Notice of Proposed Rulemaking, the Commission requests comments on the establishment of a new Federal Advisory Committee ("FAC") to analyze toll fraud issues and recommend solutions. SCOIR endorses this proposal. Toll fraud affects disparate groups of telephone users. The pace with which new fraud techniques are employed requires constant monitoring and information sharing. An FAC would be the best means to consolidate information on critical toll fraud issues and to devise solutions that properly account for the many different situations and techniques.

The Federal Advisory Committee Act acknowledges that FAC's are a "useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government."

5 U.S.C.S. APP. § 2(a). The Commission has established several FAC's in recent years to deal with fact-finding of a technical nature, such as Mobile Satellite Service in the Frequency Bands Above 1 GHz; Below 1 GHz LEO Negotiated Rulemaking Committee; and the Advisory Committee on the International Telecommunication Union World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It. An FAC on toll fraud will provide an efficient means to account for individual interests and technical capabilities in the effort to regulate fraud in emerging technologies. SCOIR recommends that such an FAC include representatives from interexchange carriers ("IXCs"), local exchange carriers ("LECs"), major user groups including state governments, pay telephone providers, and manufacturers of PBX's and other equipment and software susceptible to toll fraud.

III. BLOCKING AND SCREENING ALONE DO NOT MINIMIZE TOLL FRAUD; THUS, THE FLORIDA MODEL WHICH APPORTIONS LIABILITY FOR TOLL FRAUD BASED ON FAULT SHOULD BE ADOPTED ON THE FEDERAL LEVEL

In Paragraph 31 of this Notice of Proposed Rulemaking, the Commission requests comments on, among other issues, the appropriateness of adopting at the federal level the rule adopted by the Florida Public Service Commission, which apportions liability for toll fraud activities. The Florida rule provides

that, if a pay telephone provider has purchased call screening for a telephone line, the provider is released from liability for charges resulting from certain types of fraudulent calls on the line. The rule also addresses responsibilities of the LEC and IXC in these situations.

SCOIR believes there is a definite need for each interested party involved in a toll call to assume a portion of the responsibility for preventing fraudulent activity. SCOIR believes that the customer should be responsible for initiating call screening. If the customer has activated call screening, any call processed that should have been caught by the screening process should not be billed to the customer. Second, the LEC should be responsible for entering and maintaining a current screening data base and checking this data base before completing any toll calls. Third, the IXC and LEC should be responsible for checking the screening data base before initiating any interlata or intralata toll calls and international calls. The LECs and IXCs should monitor abnormal activities and alert customers about unusual dialing patterns or unusual increases in traffic. If the LECs or IXCs subcontract operator service to other vendors, then the LECs or IXCs should remain responsible for fraudulent calls which are placed through these subcontractors, if the affected customers have initiated call screening. Finally, equipment vendors should have the responsibility to educate the customer on any potentials for toll fraud inherent in their equipment and to make recommendations on preventive measures. The customer should

analyze the systems recommended or available, and implement them in the most secure manner to minimize the opportunity for toll fraud.

Once an aggregator or consumer has taken the reasonable measures within its control to prevent toll fraud, then the entity should not be penalized for the fraudulent calls that nevertheless occur. If protective measures are taken, then the liability for fraudulent calls should shift to the LECs and IXC's. Unless the LECs and IXC's are forced to internalize the costs of these fraudulent calls, they will have no incentive to minimize the occurrence of toll fraud.

Therefore, SCOIR endorses implementation of the Florida approach at the federal level. The Florida approach properly structures incentives, so that each party is encouraged to take all steps in its power to minimize fraud, and bears the responsibility if it fails to take such steps.

IV. CALL SCREENING SHOULD BE PRICED IN RELATION TO THE LEC'S ACTUAL COST OF PROVIDING THE SERVICE.

In Paragraph 31 of this Notice of Proposed Rulemaking, the Commission requests comments on the general availability of blocking and screening services and whether such services are reasonably priced. In South Carolina, LECs charge a service connection charge of \$38.00, per service order, to initiate call screening. Considering that the State is responsible for over 60,000 telephones, the connection charges to initiate call screening for these lines could be inordinately expensive. If

South Carolina LECs were to assess payment for call screening on a monthly basis, similar to the payment structure used in Florida², the cost could range from \$30,000 to \$75,000 per year.

It is SCOIR's position that, to protect the customer, the fees assessed for call screening should be related to the LECs actual cost of providing the screening service.

CONCLUSION

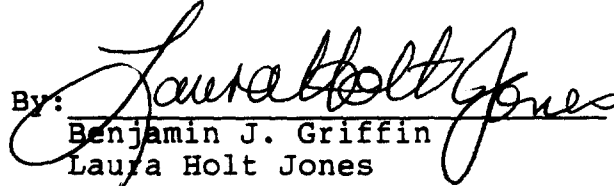
The issue of toll fraud continues to grow in magnitude, and consequently the liability for such fraudulent calls must be addressed. The Florida PSC has adopted an equitable structure which places liability on the party in the best position to have prevented the fraudulent call completion. By subscribing to available blocking and screening services, aggregators, including state government entities, will have done all they can to prevent completion of fraudulent calls. It is unfair to hold these entities responsible for fraudulent call charges resulting from the failure of IXC and LEC services. SCOIR therefore respectfully requests that the FCC adopt the Florida rule at the federal level. SCOIR urges the Commission to also require LECs to set prices for call screening service based on the service's cost to the LEC.

² Based on our correspondence with the Florida Division of Communications Department of Management Services, we understand that Florida LECs charge a fee of \$0.60 to \$1.50 per month for call screening.

Finally SCOIR also supports the creation of a Federal Advisory Committee, comprised of representatives of all interested parties, to deal with toll fraud.

Respectfully submitted,

OFFICE OF INFORMATION RESOURCES

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